

61-2f-102. Definitions.

As used in this chapter:

- (1) "Associate broker" means an individual who is:
 - (a) employed or engaged as an independent contractor by or on behalf of a principal broker to perform an act set out in Subsection (18) for valuable consideration; and
 - (b) licensed under this chapter as an associate broker.
- (2) "Branch office" means a principal broker's real estate brokerage office that is not the principal broker's main office.
- (3) "Business day" means a day other than:
 - (a) a Saturday;
 - (b) a Sunday; or
 - (c) a federal or state holiday.
- (4) "Business opportunity" means the sale, lease, or exchange of any business that includes an interest in real estate.
- (5) "Commission" means the Real Estate Commission established under this chapter.
- (6) "Concurrence" means the entities given a concurring role must jointly agree for action to be taken.
- (7) "Condominium unit" is as defined in Section 57-8-3.
- (8) "Condominium homeowners' association" means the condominium unit owners acting as a group in accordance with declarations and bylaws.
- (9) (a) "Condominium hotel" means one or more condominium units that are operated as a hotel.
 - (b) "Condominium hotel" does not mean a hotel consisting of condominium units, all of which are owned by a single entity.
- (10) "Director" means the director of the Division of Real Estate.
- (11) "Division" means the Division of Real Estate.
- (12) "Entity" means:
 - (a) a corporation;
 - (b) a partnership;
 - (c) a limited liability company;
 - (d) a company;
 - (e) an association;
 - (f) a joint venture;
 - (g) a business trust;
 - (h) a trust; or
 - (i) any organization similar to an entity described in Subsections (12)(a) through (h).
- (13) "Executive director" means the director of the Department of Commerce.
- (14) "Foreclosure rescue" means, for compensation or with the expectation of receiving valuable consideration, to:
 - (a) engage, or offer to engage, in an act that:
 - (i) the person represents will assist a borrower in preventing a foreclosure; and
 - (ii) relates to a transaction involving the transfer of title to residential real property; or

(b) as an employee or agent of another person:

(i) solicit, or offer that the other person will engage in an act described in Subsection (14)(a); or

(ii) negotiate terms in relationship to an act described in Subsection (14)(a).

(15) "Loan modification assistance" means, for compensation or with the expectation of receiving valuable consideration, to:

(a) act, or offer to act, on behalf of a person to:

(i) obtain a loan term of a residential mortgage loan that is different from an existing loan term including:

(A) an increase or decrease in an interest rate;

(B) a change to the type of interest rate;

(C) an increase or decrease in the principal amount of the residential mortgage loan;

(D) a change in the number of required period payments;

(E) an addition of collateral;

(F) a change to, or addition of, a prepayment penalty;

(G) an addition of a cosigner; or

(H) a change in persons obligated under the existing residential mortgage loan;

or

(ii) substitute a new residential mortgage loan for an existing residential mortgage loan; or

(b) as an employee or agent of another person:

(i) solicit, or offer that the other person will engage in an act described in Subsection (15)(a); or

(ii) negotiate terms in relationship to an act described in Subsection (15)(a).

(16) "Main office" means the address which a principal broker designates with the division as the principal broker's primary brokerage office.

(17) "Person" means an individual or entity.

(18) "Principal broker" means an individual who is licensed as a principal broker under this chapter and who:

(a) (i) sells or lists for sale real estate, including real estate being sold as part of a foreclosure rescue, or a business opportunity with the expectation of receiving valuable consideration;

(ii) buys, exchanges, or auctions real estate, an option on real estate, a business opportunity, or an improvement on real estate with the expectation of receiving valuable consideration; or

(iii) advertises, offers, attempts, or otherwise holds the individual out to be engaged in the business described in Subsection (18)(a)(i) or (ii);

(b) is employed by or on behalf of the owner of real estate or by a prospective purchaser of real estate and performs an act described in Subsection (18)(a), whether the individual's compensation is at a stated salary, a commission basis, upon a salary and commission basis, or otherwise;

(c) (i) with the expectation of receiving valuable consideration, manages property owned by another person; or

(ii) advertises or otherwise holds the individual out to be engaged in property management;

(d) with the expectation of receiving valuable consideration, assists or directs in the procurement of prospects for or the negotiation of a transaction listed in Subsections (18)(a) and (c);

(e) except for a mortgage lender, title insurance producer, or an employee of a mortgage lender or title insurance producer, assists or directs in the closing of a real estate transaction with the expectation of receiving valuable consideration; or

(f) (i) engages in foreclosure rescue; or

(ii) advertises, offers, attempts, or otherwise holds the person out as being engaged in foreclosure rescue.

(19) (a) "Property management" means engaging in, with the expectation of receiving valuable consideration, the management of real estate owned by another person or advertising or otherwise claiming to be engaged in property management by:

(i) advertising for, arranging, negotiating, offering, or otherwise attempting or participating in a transaction calculated to secure the rental or leasing of real estate;

(ii) collecting, agreeing, offering, or otherwise attempting to collect rent for the real estate and accounting for and disbursing the money collected; or

(iii) authorizing expenditures for repairs to the real estate.

(b) "Property management" does not include:

(i) hotel or motel management;

(ii) rental of tourist accommodations, including hotels, motels, tourist homes, condominiums, condominium hotels, mobile home park accommodations, campgrounds, or similar public accommodations for a period of less than 30 consecutive days, and the management activities associated with these rentals; or

(iii) the leasing or management of surface or subsurface minerals or oil and gas interests, if the leasing or management is separate from a sale or lease of the surface estate.

(20) "Real estate" includes leaseholds and business opportunities involving real property.

(21) (a) "Regular salaried employee" means an individual who performs a service for wages or other remuneration, whose employer withholds federal employment taxes under a contract of hire, written or oral, express or implied.

(b) "Regular salaried employee" does not include an individual who performs services on a project-by-project basis or on a commission basis.

(22) "Reinstatement" means restoring a license that has expired or has been suspended.

(23) "Reissuance" means the process by which a licensee may obtain a license following revocation of the license.

(24) "Renewal" means extending a license for an additional licensing period on or before the date the license expires.

(25) "Sales agent" means an individual who is:

(a) affiliated with a principal broker, either as an independent contractor or an employee as provided in Section 61-2f-303, to perform for valuable consideration an act described in Subsection (18); and

(b) licensed under this chapter as a sales agent.

(26) (a) "Undivided fractionalized long-term estate" means an ownership interest in real property by two or more persons that is:

- (i) a tenancy in common; or
- (ii) any other legal form of undivided estate in real property including:
 - (A) a fee estate;
 - (B) a life estate; or
 - (C) other long-term estate.
- (b) "Undivided fractionalized long-term estate" does not include a joint tenancy.

Amended by Chapter 166, 2012 General Session